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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.No.836/99  
with  
O.A.No.1455/98

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)  
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 11th day of January, 2000

O.A.No.836/99:

Shri G.B.Karki  
s/o Shri Nar Bhadar Karki  
8/109, G Point President Estate  
New Delhi. .. Applicant

(By Shri O.P.Sood, Advocate)

Vs.

1. Union of India through  
Secretary  
Min. of Urban Development & Employment  
Nirman Bhawan  
New Delhi.
  2. Director of Printing  
Nirman Bhawan  
New Delhi.
  3. Manager  
Govt. of India Press  
Rashtrapati Bhawan  
New Delhi.
  4. Shri Jai Chand  
Compositor
  5. Shri Ishwar Dutt  
Compositor
  6. Shri D.K.Joshi  
Compositor
  7. Shri Jai Bhagwan  
Compositor
- All the Respondents from Sl. No.4 to 7  
c/o Manager  
G.O.I., Rashtrapati Bhawan  
New Delhi. ...Respondents

(By Mrs. P.K.Gupta, Advocate)

O.A.No.1455/98:

Shri G.B.Karki  
s/o Shri Nar Bhadar Karki  
8/109, G Point President Estate  
New Delhi. .. Applicant

(By Shri O.P.Sood, Advocate)

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Min. of Urban Development & Employment  
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2. Director of Printing  
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Nirman Bhawan  
New Delhi.
3. Manager  
Govt. of India Press  
Rashtrapati Bhawan  
New Delhi.

... Respondents

(By Shri Mrs. P.K.Gupta, Advocate)

O R D E R (Oral)

By R.K.Ahooja, Member(A)

Both these OAs are based on the same facts and even though the reliefs claimed by the applicant are different, both can be disposed of by this common order.

2. The applicant in both the OAs is working as a peon in the Government of India Press, Rashtrapati Bhawan, New Delhi since 4.6.1985 and his grievance is his non promotion as LDC. In accordance with the Recruitment Rules, 15% vacancies in the grade of Lower Division Clerks (LDCs) are to be filled by Group 'D'. Out of them 10% of the vacancies shall be filled through a Limited Departmental Examination confined to such employees who have a minimum educational qualifications, namely, matriculate, while 5% vacancies may be filled on the basis of the seniority subject to rejection of unfit. The applicant submits that there is a vacancy available to be filled through Limited Departmental Examination. However he alleges that the respondents are proceeding to fill up all the vacancies by deployment of surplus

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staff giving no opportunity to the applicant for promotion. In OA No.1455/98, which was filed by the same applicant, he seeks a direction to the respondents to pool all the vacancies of the LDCs and conduct competitive examination for filling 10% vacancies thereof reserved for the Group 'D' employees. In OA No.836/99, the relief sought for by him is that the appointment of respondents 4 to 7 as LDCs is illegal and to revert them to their original posts and consider the applicant on the post reserved for Group 'D' Employees with all consequential benefits.

3. The respondents have filed a similar reply in both the OAs and have stated that the Government had imposed a ban on filling up of posts of LDCs by direct recruitment. Consequently the posts have been filled through deployment of surplus staff. They state that one post of LDC was filled up through Limited Departmental Examination in 1985. Accordingly, the respondents state that the applicant has no cause for complaint.

4. We have heard the counsel. Learned counsel for the applicant pointed out that the person who was appointed on the basis of the Limited Departmental Examination held in 1985 has since retired/promoted. Accordingly, he argues that the vacancy is to be filled up through the medium of Limited Departmental Examination. On the other hand, the learned counsel for the respondents submits that since the Government had imposed a ban on direct recruitment, the first method of filling up of posts

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is not available and it is not possible therefore to adopt the second method also, namely, appointment by promotion.

5. We have carefully considered the above mentioned contentions and submissions. We do not agree with the learned counsel for the respondents that if the Government has imposed a ban on filling up of the posts through direct recruitment, it also implies that the quota reserved for promotion can also not been filled up by the prescribed method. The method of direct recruitment and method of promotion are distinct and separate. If the ban is only confined to the filling up of the posts through direct recruitment it cannot automatically, mean that the promotion method also stands banned. Therefore, in our view, the vacancies available for promotion have to be filled up through the prescribed method.

6. As per the learned counsel for the applicant, the person, who was appointed through the Limited Departmental Examination in 1985 has since been retired/promoted. This is not refuted by the respondents. In other words, the vacancy is now available to be filled up through promotion. The only question is whether the promotion is to be filled through the medium of Limited Departmental Examination or on the basis of the seniority subject to rejection of unfit. We have not been able to obtain a clear picture as to whether the last two promotions have been made on the basis of seniority or on the basis of Limited Departmental Examination. Clearly on the last occasion, i.e., 1985 the vacancy was filled through

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the Limited Departmental Examination. In case the vacancy was filled up prior to 1985 also on the basis of the examination, then clearly the present turn would be for filling up of the vacancy on the basis of seniority since out of 15% posts reserved for promotion, 10% are to be filled up through the examination and 5% through seniority.

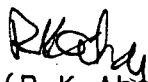
7. In view of the aforesaid situation, we dispose of both the OAs with a direction that a vacancy arising on account of the retirement of the promoted person who was appointed in 1985 will be filled up through means of promotion. As to whether it would be filled up on the basis of the departmental examination or on the basis of the seniority will be determined by the respondents on the basis whether the promotion vacancy was filled up on the basis of examination on the last two occasions. If that be the case, the promotion now will be filled on the basis of seniority otherwise by means of departmental examination. The respondents will, on selection being made for promotion, revert the person who has been appointed against that post through deployment.

8. In so far as the relief sought for by the applicant in OA 1455/98, in regard to the centralised departmental examination including of the vacancies are concerned we find that as per the OM dated 20.3.1970, it was left to the Ministry/Department concerned to decide whether the vacancies should be pooled together or whether the successful candidates should be appointed only in their respective offices. The respondents have decided in consultation of

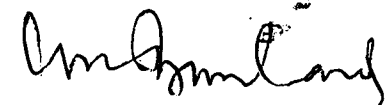
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Ministry of Urban Development and the Department Personnel & Training to hold examination on decentralised basis. In any case the provision being that the respondents as per the OM relied by the applicant, decide whether the vacancies should be pooled or not, we do not feel that any direction can be issued in terms of the prayer made by the applicant.

9. The aforesaid directions in para 7 will be carried out within a period of four months from the date of receipt of a copy of this order. No order as to costs.

  
(R.K. Ahooja)  
Member (A)

/rao/

  
(V. Rajagopala Reddy)  
Vice Chairman (J)